

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: HILLS TELEPHONE COMPANY, INC.	DOCKET NO. WRU-03-39-391
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**ORDER GRANTING REQUEST FOR WAIVER AND DENYING
REQUEST FOR WAIVER**

(Issued August 19, 2003)

On July 15, 2003, Hills Telephone Company, Inc. (Hills), filed with the Utilities Board (Board) a request for a waiver of Board rule 199 IAC 18.2, requiring that a regulated public utility keep its records in Iowa, and rule 199 IAC 22.23(2), requiring individual customer verifications for changes in telecommunications services. The waiver request has been identified as Docket No. WRU-03-39-391. No objection to the request has been filed.

In support of its request, Hills states that prior to July 7, 2003, it was a wholly-owned subsidiary of Alliance Telecommunications Corporation (ATC), a Minnesota corporation headquartered in Ada, Minnesota. Alliance Communications Cooperative, Inc. (ACCI), in turn, held 12 percent of ATC's stock. On July 7, 2003, ACCI exchanged all of its ATC stock for all of the stock in Hills and Hills became a wholly-owned subsidiary of ACCI.

Hills currently provides local telecommunications services to approximately 2,136 Iowans in six local telephone exchanges, four of which are located entirely in

the state of Iowa. Hills wishes to operate its local exchange business under the assumed trade name "Alliance Communications," which is the same trade name used by ACCI and its other subsidiaries. (The Board notes that Hills will need to file a tariff revision listing "Alliance Communications" as a trade name, pursuant to 199 IAC 22.2(4)"d"(1).)

Hills states that it intends to give notice to each of its Iowa customers of the name change from Hills to Alliance Communications by means of a letter to be sent to each customer. The letter, a copy of which was attached to the request, would inform customers that the carrier's name will be changing but there will not be a change in the rates, terms, and conditions of services provided to Hills' customers.

Hills requests a waiver of 199 IAC 18.2 so that it may transfer its business records from their present location in Minnesota to Hills's principal place of business in Garretson, South Dakota. Hills also requests a waiver of 199 IAC 22.23(2) which requires individual customer verification for any changes in a customer's telecommunications services.

To grant the requested waivers, the Board must find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed

by these rules. The Board has considered the waiver requests as described above and finds that the waiver of 199 IAC 18.2 meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing. The Board also finds that a waiver of 199 IAC 22.23(2) is unnecessary because Hills is not proposing a change in its customers' service, but instead is merely proposing to operate as the same entity under an assumed trade name. For this reason, the request for a waiver of 199 IAC 22.23(2) will be denied and the following analysis applies only to the request for a waiver of 199 IAC 18.2.

Adherence to rule 199 IAC 18.2, requiring that records be kept in Iowa, would be an undue hardship on a small telecommunications company that does not maintain an office in Iowa (and never has). It would be an undue hardship on Hills because other carriers have been granted similar waiver requests. The Board finds that there are no substantial legal rights of any person that are affected by this waiver because Hills states that it will make any records the Board may require available to the Board, while Iowa customers will find the new South Dakota location is closer to them than the former Minnesota location. Additionally, the Board finds there is no statute that specifically mandates the actions waived and that there will be substantially equal protection for health, safety, and welfare provided since the actions waived will be completed under different circumstances.

IT IS THEREFORE ORDERED:

The waiver request filed by Hills Telephone Company, Inc., on July 14, 2003, and identified as Docket No. WRU-03-39-391, is granted in part and denied in part, as described in this order. The requirements of 199 IAC 18.2 that business records be kept within the state of Iowa are waived. The requirements of 199 IAC 22.23(2), regarding verification requirements for unauthorized changes in telecommunications service, are not waived.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 19th day of August, 2003.